IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL APPLICATION NO.4154 OF 2004
IN
CRIMINAL APPEAL NO.478 OF 2004

Shankar Jeevan Patel Applicant

Vs.

Administration of Daman & Diu & anr. Respondents

Mr.P.Janardhanan with Mr.C.K.Rajan for applicant.
Mr.H.V.Mehta for Resp.No.1.
Ms.Usha Kejriwal, APP for State.

CORAM: S.S.PARKAR & SMT.RANJANA DESAI,JJ.

October 26, 2004.

P.C.

. This is the second application filed on behalf of the convicted applicant for his release on bail on merits as well as on the ground that the trial was vitiated as two trials had taken place in two cross complaints by two different courts, one by Magistrate and another by the Sessions Court. The applicant has been convicted by the Sessions Court for offence under Section 302 of IPC. The opposite side, who were accused in the cross complaint filed by this accused, has been acquitted by the Magistrate.

. It is contended on behalf of the applicant that the trial is vitiated because the trials in two

cases arising from the same incident had taken place in two different courts. In our view the said contention can be raised at the hearing of the appeal which is filed by this applicant against the order of his conviction under section 302 of IPC. The earlier application for bail was rejected by us by our order dated 10th June 2004 on merits pointing out that eye witnesses attributed assault on the deceased to this applicant with sharp instrument.

. Mr.Janardhanan then submits that appeal itself may be placed for hearing and he further states that the appellant is ready and willing to prepare the appeal paper book at his cost and also seeks liberty to mention the matter for fixing the appeal for hearing after the appeal paper book is ready. Mr.Mehta appearing for the prosecuting agency has not objection for the appeal itself being fixed for hearing any time.

. In the result, the application for bail is rejected. Prayer made in prayer clause (b) of the application is kept open to be considered at the hearing of the appeal. Hearing of the appeal is expedited. The appellant has liberty to prepare the

appeal paper book at his cost and to apply for fixing the date of hearing of the appeal as and when the appeal paper book is ready.

(S.S.PARKAR,J.)

(SMT.RANJANA DESAI,J.)